



An Act Concerning Nitrogen Reduction Permitting And Trading.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) As used in this section and sections 2 to 5,
2 inclusive, of this act:

3 (1) "Equivalency factor" means a ratio of the unit response of
4 dissolved oxygen to nitrogen in Long Island Sound for each publicly
5 owned treatment works based on the geographic location of the
6 specific publicly owned treatment works' discharge point divided by
7 the unit response of the geographic area with the highest impact;

8 (2) "Equivalent nitrogen reduction credit" means a nitrogen
9 reduction credit multiplied by the equivalency factor;

10 (3) "Equivalent pounds" means the actual pounds of nitrogen
11 discharged by a publicly owned treatment works multiplied by the
12 equivalency factor for that publicly owned treatment works;

13 (4) "Individual nitrogen waste load allocation" means that portion of
14 the state-wide waste load allocation apportioned to an individual
15 publicly owned treatment works and shall be construed as an effluent
16 standard or limitation for purposes of 33 USC 1365;

17 (5) "Nitrogen" means the total of ammonia nitrogen, organic
18 nitrogen, nitrite nitrogen and nitrate nitrogen;

19 (6) "Nitrogen Credit Management Board" means the board
20 established pursuant to section 3 of this act;

21 (7) "Nitrogen credit trading program" means the program within the
22 Department of Environmental Protection established pursuant to
23 section 4 of this act;

24 (8) "Nitrogen reduction credit" means the difference between the
25 annual total nitrogen load specified for a publicly owned treatment
26 works in the general permit for nitrogen discharges and the annual
27 total nitrogen load discharged by that publicly owned treatment works
28 when the actual discharge is less than the allocated load for that
29 period, expressed as pounds of nitrogen per day;

30 (9) "Nonpoint source" means any source of nitrogen originating
31 from other than a readily discernable end of pipe source;

32 (10) "Publicly owned treatment works" means a system used for the
33 collection, treatment or disposal of sewage from one or more parcels of
34 land and that discharges to the waters of the state and is owned by a
35 municipality or the state;

36 (11) "State-owned equivalent nitrogen reduction credits" means the
37 difference between the annual state-wide waste load allocation
38 established in the total maximum daily load and the sum of the annual
39 discharges for all publicly owned treatment works;

40 (12) "State-wide waste load allocation" means the maximum
41 allowable nitrogen load from publicly owned treatment works into
42 Long Island Sound that will meet water quality standards as specified
43 in the total maximum daily load;

44 (13) "Total maximum daily load" means the total maximum daily
45 load analysis to achieve water quality standards for dissolved oxygen
46 in Long Island Sound as established by the Department of
47 Environmental Protection and as approved by the United States
48 Environmental Protection Agency; and

49 (14) "Unit response" means the reaction of dissolved oxygen in Long
50 Island Sound to a change in nitrogen loading of 1.0 pound.

51 Sec. 2. (NEW) Notwithstanding any provision of section 22a-430 or
52 22a-430b of the general statutes and notwithstanding nitrogen limits
53 specified in individual discharge permits issued pursuant to said
54 section 22a-430, the Commissioner of Environmental Protection shall
55 issue a general permit specifying effluent limits for nitrogen in
56 accordance with the total maximum daily load. In order to meet water
57 quality standards, the commissioner may incorporate compliance
58 schedules into permits issued under this section and said sections 22a-
59 430 and 22a-430b. The general permit shall establish effluent limits for
60 nitrogen and shall establish an annual compliance schedule for
61 nitrogen reduction for each publicly owned treatment works. Under
62 the general permit, the commissioner may require publicly owned
63 treatment works to (1) meet effluent limits or other conditions for
64 discharging nitrogen to the waters of the state pursuant to their
65 individual waste load allocations, (2) comply with monitoring
66 requirements as set forth in the general permit, or (3) comply with any
67 other requirements as determined by the commissioner necessary to
68 carry out the provisions of this section. Publicly owned treatment
69 works may participate in the nitrogen credit trading program in order
70 to comply with effluent limits for nitrogen specified in the general
71 permit.

72 Sec. 3. (NEW) (a) There is established a Nitrogen Credit
73 Management Board to assist and advise the commissioner in
74 administering the nitrogen credit trading program. The board shall
75 consist of the following members: (1) The Commissioner of
76 Environmental Protection or the commissioner's designee; (2) the
77 Secretary of the Office of Policy and Management or the secretary's
78 designee; (3) the State Treasurer or the treasurer's designee; (4) one
79 appointed by the speaker of the House of Representatives who is a
80 representative of the Connecticut Conference of Municipalities, (5) one
81 appointed by the president pro tempore of the Senate who is a
82 representative of the Connecticut Conference of Municipalities, (6) one

83 appointed by the majority leader of the House of Representatives who
84 is a representative of the Long Island Assembly, (7) one appointed by
85 the majority leader of the Senate who is a representative of the Long
86 Island Assembly, (8) one appointed by the minority leader of the
87 House of Representatives who is a representative of the Connecticut
88 Water Pollution Abatement Association, (9) one appointed by the
89 minority leader of the Senate who is a representative of the
90 Connecticut Water Pollution Abatement Association, and (10) one
91 appointed by the Governor who is a representative of the Council of
92 Small Towns. All appointments shall be made not later than August 1,
93 2000.

94 (b) The Commissioner of Environmental Protection or the
95 commissioner's designee shall serve as chairperson of the board for the
96 first meeting and shall schedule the first meeting of such board no later
97 than September 1, 2000. A majority of the members shall constitute a
98 quorum for the transaction of business. The principal office of such
99 board shall be the office of the Commissioner of Environmental
100 Protection. At its first meeting, the board shall determine by lot which
101 members shall serve for one, two or three years, provided the terms of
102 office of not more than fifty per cent of the board shall expire in any
103 one year. Thereafter, each term of office shall be for three years. The
104 board shall choose a chairperson and secretary by ballot from its
105 membership.

106 (c) Not later than September thirtieth, annually, the board shall
107 submit to the joint standing committee of the General Assembly
108 having cognizance of matters relating to the environment its findings
109 that address the following:

110 (1) A summary of the nitrogen credit trading program's progress in
111 achieving the total maximum daily load;

112 (2) The adequacy of Clean Water Fund financing pursuant to section
113 22a-477 of the general statutes, as amended by this act, to support the
114 nitrogen credit trading program and the total maximum daily load;

115 (3) Recommendations for changes to the program including, but not
116 limited to: (A) Trading with entities outside the state; (B) expanding
117 the general permit for nitrogen discharges and the nitrogen credit
118 trading program to include additional point and nonpoint sources; and
119 (C) trading transactions executed outside of the nitrogen credit trading
120 program; and

121 (4) Identification of any other issues that need to be resolved.

122 Sec. 4. (NEW) (a) The Commissioner of Environmental Protection
123 with the approval of the Nitrogen Credit Management Board shall
124 establish a nitrogen credit trading program to assist in the
125 implementation of the total maximum daily load. The nitrogen credit
126 trading program shall apply to all publicly owned treatment works.

127 (b) The commissioner, after consultation with the Nitrogen Credit
128 Advisory Board, shall:

129 (1) Establish a schedule and monitor all nitrogen removal
130 construction projects;

131 (2) Establish an equivalency factor for each publicly owned
132 treatment works, which may be revised at the commissioner's
133 discretion consistent with the total maximum daily load. The
134 equivalency factor and any proposed revisions shall be made available
135 for public comment at least thirty days prior to being implemented in
136 the nitrogen credit trading program;

137 (3) Establish the individual waste load allocation for each publicly
138 owned treatment works utilizing the equivalency factors and taking
139 into consideration the schedule for nitrogen removal construction
140 projects;

141 (4) Monitor annual progress in meeting the fifteen-year
142 implementation schedule in the total maximum daily load;

143 (5) Propose modifications, as may be necessary, to the general
144 permit for nitrogen discharges;

145 (6) Establish the annual value of equivalent nitrogen reduction
146 credits giving consideration to the most recently constructed projects
147 and their capital and operating costs;

148 (7) Oversee and execute all equivalent nitrogen reduction credit
149 trades;

150 (8) Maintain a separate account of state-owned equivalent nitrogen
151 reduction credits;

152 (9) Purchase all equivalent nitrogen reduction credits created by
153 publicly owned treatment works at the annually established value;

154 (10) Sell available state-owned equivalent nitrogen reduction credits
155 including nitrogen reduction credits purchased from publicly owned
156 treatment works at the annually established value to enable publicly
157 owned treatment works to meet nitrogen limits specified in the general
158 permit for nitrogen discharges;

159 (11) Whenever practicable, sell remaining state-owned equivalent
160 nitrogen reduction credits to any other public or private entity;

161 (12) Establish an annual uniform transaction fee not to exceed five
162 per cent for each equivalent nitrogen reduction credit transaction;

163 (13) Establish accounts of funds created from the purchase and sale
164 of equivalent nitrogen reduction credits and the collection of
165 transaction fees to be used for administration of the nitrogen credit
166 trading program and which may be used for nitrogen removal
167 projects, habitat restoration projects and research; and

168 (14) Establish any other policies or procedures the commissioner,
169 after consultation with the board, may deem necessary to carry out the
170 nitrogen credit trading program.

171 (c) (1) Not later than March thirty-first, annually, the commissioner,
172 after consultation with the Nitrogen Credit Management Board, shall
173 audit the performance of each publicly owned treatment works

174 operating from January first to December thirty-first of the preceding
175 year and shall (A) determine the number of equivalent nitrogen
176 reduction credits for sale and the number of equivalent nitrogen
177 reduction credits to be purchased, (B) determine and publish the
178 annual value of equivalent nitrogen reduction credits, and (C) notify
179 each publicly owned treatment works of their equivalent nitrogen
180 reduction credit balance.

181 (2) Not later than July thirty-first, annually, each publicly owned
182 treatment works shall purchase equivalent nitrogen reduction credits
183 necessary to meet its individual nitrogen waste load allocation. Such
184 purchase shall be paid by certified bank check or money order made
185 payable to the "Department of Environmental Protection". The check
186 or money order shall state on its face "nitrogen reduction credit
187 purchase".

188 (3) Not later than August fourteenth, annually, the commissioner,
189 after consultation with the Nitrogen Credit Management Board, shall
190 purchase all available equivalent nitrogen reduction credits.

191 Sec. 5. (NEW) (a) The Commissioner of Environmental Protection
192 may audit the annual operating data of publicly owned treatment
193 works participating in the nitrogen credit trading program in order to
194 assess permit compliance. Publicly owned treatment works that do not
195 meet individual nitrogen waste load allocations through treatment or
196 the purchase of credits shall be subject to the enforcement provisions
197 of chapter 446k of the general statutes and to the civil action provisions
198 of 33 USC 1365.

199 (b) The commissioner, after consultation with the Nitrogen Credit
200 Management Board, may adopt regulations, in accordance with
201 chapter 54 of the general statutes, to carry out the provisions of
202 sections 2 to 5, inclusive, of this act.

203 Sec. 6. Subsection (h) of section 22a-477 of the general statutes is
204 repealed and the following is substituted in lieu thereof:

205 (h) Amounts in the water pollution control state account of the
206 Clean Water Fund shall be available: (1) To be invested by the
207 Treasurer of the state to earn interest on moneys in such account; (2)
208 for the commissioner to make grants to municipalities in the amounts
209 and in the manner set forth in a project funding agreement; (3) for the
210 commissioner to make loans to municipalities in amounts and in the
211 manner set forth in a project funding agreement for planning and
212 developing eligible projects prior to construction and permanent
213 financing; (4) for the commissioner to make loans to municipalities, for
214 terms not exceeding twenty years, for an eligible water quality project;
215 (5) for the commissioner to pay the costs of environmental studies and
216 surveys to determine water pollution control needs and priorities and
217 to pay the expenses of the department in administering the program;
218 (6) for the payment of costs for administration and management of the
219 Clean Water Fund; (7) provided such amounts are not required for the
220 purposes of such fund, for the Treasurer of the state to pay debt service
221 on bonds of the state issued to fund the Clean Water Fund, or for the
222 purchase or redemption of such bonds; (8) for the commissioner to
223 make grants to municipalities for the development and installation of
224 structural improvements to secondary clarifier operations including,
225 but not limited to, flow distribution mechanisms, baffle-type devices,
226 feed well design and sludge withdrawal mechanisms. Grants under
227 this subdivision shall be for one hundred per cent of the construction
228 cost and not more than three million dollars from the fund shall be
229 used for such grants; [and] (9) for the commissioner to pay the costs for
230 the establishment, administration and management of the nitrogen
231 credit trading program described in section 4 of this act, including, but
232 not limited to, the purchase of equivalent nitrogen reduction credits
233 from publicly owned treatment works in the event that the account of
234 state funds established pursuant to said section 4 is exhausted; and (10)
235 for any other purpose of the Clean Water Fund and the program
236 relating thereto.

237 Sec. 7. This act shall take effect July 1, 2000.

Statement of Legislative Commissioners:

Sections 5 and 6 were combined for consistency.

ENV Committee Vote: Yea 24 Nay 0 JFS C/R FIN

FIN Committee Vote: Yea 45 Nay 0 JFS-LCO

APP Committee Vote: Yea 41 Nay 0 JF